

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No.	ED CV 11-00949 AHM (OPx)	Date	July 16, 2012
Title	CRUZ v. OLD REPUBLIC DEFAULT MANAGEMENT SERVICES, et al.		

Present: The Honorable	A. HOWARD MATZ, U.S. DISTRICT JUDGE
Stephen Montes	Not Reported
Deputy Clerk	Court Reporter / Recorder
Attorneys NOT Present for Plaintiffs:	Attorneys NOT Present for Defendants:

Proceedings: IN CHAMBERS (No Proceedings Held)

For the following reasons, the Court on its own motion REMANDS this case to San Bernardino County Superior Court.

On February 10, 2011, Plaintiff Oscar Cruz, *pro se*, filed suit in state court against Defendants Old Republic Default Management Services and AMS Servicing, LLC.¹ Plaintiff alleged five causes of action, none of which presented a federal question. On April 7, 2012, Defendants filed a demurrer to Plaintiff's complaint. After the state court sustained Defendants' demurrer and granted Plaintiff thirty days to amend his complaint, Plaintiff filed a First Amended Complaint ("FAC") on June 1, 2011. Among other claims, the FAC alleged violations of the Real Estate Settlement Procedures Act of 1974 ("RESPA"), 12 U.S.C. §§ 2601 *et seq.* On June 15, 2011, Defendants removed the case to federal court based on the federal question presented by the new RESPA claim. On June 23, 2011, Defendants moved to dismiss the FAC. I granted that motion on March 15, 2012, and stated in the Order: "If Plaintiff . . . file[s] a Second Amended Complaint in time, but if the sole claim (RESPA) warranting federal jurisdiction is again defective, the Court may exercise its authority under 28 U.S.C. § 1337 to remand the remaining claims to state court." (Dkt. 14, at 11.)

On April 3, 2012, Plaintiff filed his SAC. (Dkt. 15.) In the SAC, Plaintiff no longer alleges violations of RESPA, and all of the remaining claims are made pursuant to

¹Plaintiff has alleged throughout the lawsuit that he is a citizen of California and that Defendants Old Republic and AMS are both California corporations.

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various sections of the California Civil Code.² So I now exercise my authority under section 1367 to remand the remaining claims to San Bernardino County Superior Court. Not only do the state law claims “substantially predominate” over any claims presenting a federal question, but Plaintiff no longer even alleges the sole claim that warranted federal jurisdiction and resulted in removal from state court. Nor has Plaintiff pointed to any exceptional circumstances or compelling reasons why the Court should retain jurisdiction despite the absence in the SAC of the claim that provided the basis for removal in the first place.

Accordingly, the Court REMANDS this case to San Bernardino Superior Court.

No hearing is necessary. Fed. R. Civ. P. 78; Local Rule 7-15.

Initials of Preparer

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²Plaintiff alleges only three causes of action for (1) failure to comply with the requirements for notice of default pursuant to Cal. Civ. Code §§ 2923.5 and 2924 *et seq.*, (2) failure to comply with the requirement for the substitution of trustee pursuant to Cal. Civ. Code § 2934a, and (3) fraud pursuant to Cal. Civ. Code §§ 2923.5, 2924, 2934a.